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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/834,197	04/12/2001	Asko Koms	NC30519	3940
29683	7590	12/15/2004	EXAMINER	
HARRINGTON & SMITH, LLP 4 RESEARCH DRIVE SHELTON, CT 06484-6212			NGUYEN, LEE	
			ART UNIT	PAPER NUMBER
			2682	

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/834,197

Applicant(s)

KOMSI ET AL.

Examiner

LEE NGUYEN

Art Unit

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4 and 6-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13,28,29,34 and 35 is/are allowed.
- 6) ☒ Claim(s) 14-18,20-27,30,32,33,36,38 and 39 is/are rejected.
- 7) ☒ Claim(s) 19,31 and 37 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the communication filed 9/30/2004.

Claims 2, 5 were canceled. Claims 1, 3-4, 6-39 remain in prosecution.

2. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 14-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Kim (US 6,681,120).

Regarding claim 14, Kim teaches a method to control an entity in a mobile station (fig. 5) having at least one wireless transceiver 115, the entity being responsive to a plurality of commands for eliciting a plurality of entity functions, comprising the steps of: detecting a acceleration vector of a proprioceptive sensor 110; and transmitting a message through the at least one wireless transceiver based on the acceleration vector, the message comprising at least one instruction that governs behavior of the entity (col. 4, 35-54, 911, vehicle rescue number, emergency, location).

Regarding claim 15, Kim also teaches that the message comprises at least one machine instruction, a proprioceptive sensor having an orientation state; and at least one mobile station conduit 100 coupled to the proprioceptive sensor 110 (fig. 5, see microprocessor 112, function, motion, acceleration, col. 4, 35-54).

Regarding claim 16, Kim also teaches that the entity has a set of instructions and the message comprises the set of instructions (fig. 5, see microprocessor 112, function, motion, acceleration, col. 4, 35-54).

Regarding claim 17, Kim also teaches making a feedback sound (audible alarm, col. 4, 60).

5. Claims 30, 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Lu (US 6,603,420) cited in the previous action.

Regarding claims 30, 36, Lu teaches a method to a mobile entity from a first wireless device to a second device (fig. 2), comprising: detecting a change in an orientation of the first wireless device from an output of a proprioceptive sensor (col. 1, 42 through col. 2, 11); and based on the detected change in orientation, transmitting a description of the mobile entity from the first wireless device to the second device (col. 2, 11-24).

6. Claims 32, 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Lands (US 6,411,828) cited in the previous action.

Regarding claims 32, 38, Lands teaches a method to set a call reception state of a wireless device, comprising: detecting, from an output of a proprioceptive sensor, an orientation of the wireless device when at rest

upon a surface; and setting the call reception state of the wireless device based on the detected orientation (figs. 2A, 3A, col. 2, 7-29, col. 4, 26-36, col. 5, 31-63)

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kim in view of Hardouin (US 6,311,078) cited in previous actions.

Regarding claim 18, Kim fails to teach making a feedback vibration. Based on the signal from the sensor to generate a feedback vibration is taught by Hardouin (col. 2, 17-20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Hardouin with Kim in order to silently alert the user.

10. Claims 20-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hardouin (US 6,311,078) cited in previous actions in view of Nilsen et al. (US 6,529,144) cited in the previous action.

Regarding claim 20, Hardouin teaches method to send a feedback contextual response to a calling voice device comprising: detecting at least one speed during a time interval using speedometer (fig. 2, 206, col. 1, 24-41, 65 through col. 2, 17); detecting an incoming signal from a calling

device (col. 1, 24-41); selecting a announcement based on the at least one speed; and transmitting the announcement (col. 1, 24-38 and col. 2, 4-26). Hardouin fails to teach that the detected at least one acceleration is indicative of an orientation of a mobile in three-dimensional space. Nilsen teaches that motion sensor can be any suitable motion transducer such as one, two or three axis accelerometer, gyroscope or attitude sensor (col. 2, 58 through col. 3, 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the accelerometer of Nilsen to the system of Hardouin in order to detect the motion of the mobile station when three-dimensional acceleration is required.

Regarding claim 21, Hardouin as modified also teaches detecting at least two accelerations (motion sequence, col. 3, line 2 of Hardouin). The above combination fails to teach determining an average acceleration based on the at least two accelerations. It is taken official notice that the art of teach determining an average acceleration based on the at least two accelerations is conventionally well-known. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include determining an average acceleration based on the at least two

accelerations in order to have a better measurement of acceleration over a predetermined period of time.

Regarding claim 22, the above combination further teaches that determining if the average acceleration is within a tolerance of a neutral position acceleration vector (col. 3, 10-17 and col. 4, 40-53 of Nilsen).

Regarding claims 23-24, the above combination also teaches detecting a second at least one acceleration; and selecting an alert based on the second at least one acceleration (col. 3, 10-17, 51-63 of Nilsen).

Regarding claim 25, Hardouin as modified also teaches that said announcement is a sound recording (fig. 1, 117 of Hardouin).

Regarding claim 26, the above combination also teaches that said announcement is a text message (fig. 1, numeral 116 of Hardouin).

Regarding claim 27, the above combination also teaches that said

announcement is a mode (Hardouin, fig. 1, 116, 117, note: text and voice are part of a mode).

11. Claims 33 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Land cited in previous actions in view of Hardouin cited in the previous action.

Regarding claims 33 and 39, Lands fails to teach setting the call reception state comprising selecting a content of a message to be presented to a calling party. Hardouin teaches setting the call reception state comprising selecting a content of a message to be presented to a calling party (col. 2, 17-32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Hardouin with Land in order to prevent the user from accident.

Allowable Subject Matter

12. Claims 1-13 were allowed.

13. Claims 28-29, 34-35 are allowed.

Independent claims 28, 34 are allowed as indicated in Applicant's remarks.

14. Claims 19, 31, 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

15. Applicant's arguments filed 9/30/2004 have been fully considered but they are not persuasive.

The argument concerning the rejection of claims 19, 28-29, 31, 34-35 and 37 is moot in view of the allowance.

The argument concerning the rejection of claims 14-18 is moot in view of new ground of rejection.

Regarding the rejection of claim 20, Applicant contends that the speedometer of Hardouin is not acceleration sensor.

In response, the motile station's motion beside the speedometer including the three axis accelerometer is conventionally well-known,

as taught by Nilsen. Therefore, the combination of Hardouin and Nilsen does teach the claimed acceleration detection.

Applicant further argues that Nilsen's acceleration sensor is not the same as the claimed acceleration sensor.

In response, the examiner contends that such argument is not recited in the claim.

Applicant argues that Nilsen is not combinable with Hardouin.

In response, both references use a sensor to detect the motion of mobile station. One having skilled in the art will have no problem when combining the two references.

Regarding the rejection of independent claims 30 and 36 the claims do not have the limitation as recited in the rejection of independent claims 28 and 34, which are indicated allowable, supra. Therefore, the claims have been revised with a new ground of rejection as anticipated by Lu alone.

Regarding the rejection of claims 32 and 38, Applicant contends that in Lands, there is no discussion of setting a call reception state, i.e., go to voice mail, take the call, make an announcement, etc.

In response, the examiner does not believe that such limitations are recited in the claims.

Applicant further argues that in Lands a button must be pushed before the gravitational sensor is activated, which is contradict to the claimed setting the call reception state based on the detected orientation.

In response, the examiner believes that Applicant selected figures 2C and 2D from Lands for his rational.

In response, the claimed limitation is anticipated in the other embodiment in figures 2A and 2B of Lands.


Therefore, the rejection of claims 14-18, 20-27, 30, 32-33, 36 and 38-39 should be sustained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE NGUYEN whose telephone number is (703)-308-5249. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, VIVIAN CHIN can be reached on (703) 308-6739.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 12/11/04
LEE NGUYEN
Primary Examiner
Art Unit 2682